

AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 738

Introduced by Senator Hancock
(Principal coauthor: Senator Romero)
(Coauthor: Senator Alquist)

February 27, 2009

An act to amend Section 32500 of, and to add Sections 32501, 32502, and 32503 to, the Education Code, and to amend Section 2053.4 of the Penal Code, relating to inmate education.

LEGISLATIVE COUNSEL'S DIGEST

SB 738, as amended, Hancock. Prison inmate education.

(1) Existing law requires the Secretary of the Department of Corrections and Rehabilitation, the Chancellor of the California State University, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction to enter into interagency agreements in order to encourage greater involvement of educational institutions in planning and developing prison-based educational programs, and to appoint an advisory committee to accomplish various duties. Existing law requires the Secretary of the Department of Corrections and Rehabilitation to appoint a Superintendent of Correctional Education to oversee all prison education programs.

This bill, the Prison Education Reform Act, would instead require those officers to appoint members to the ~~Robert E. Burton~~ Correctional Education Committee. The bill would rename the position of the Superintendent of Correctional Education as the Deputy Director of Correctional Education, who would be required to perform specified duties in consultation with the committee, including the adoption and

enforcement of all necessary rules and regulations for the management and operation of education programs within the Department of Corrections and Rehabilitation, approval of education programs in correctional institutions, and the adoption of rules and regulations for the admission of inmate students to those education programs.

(2) The bill would establish the ~~Robert E. Burton~~ Correctional Education Committee in the Department of Corrections and Rehabilitation, which would be composed of 15 members, as specified. The committee would be required to advise the Deputy Director of Correctional Education regarding various goals and objectives, including the development of a 5-year comprehensive plan for a unified correctional school system by June 1, 2012, and to submit a report to the Legislature on or before January 1, 2012, on specified matters relating to correctional education in this state.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Prison Education Reform Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The Budget Act of 2008 recognizes fiscal savings derived
- 5 from the effective implementation of prison education and
- 6 vocational programs.
- 7 (b) More than 20 states have established independent
- 8 correctional educational districts and have found that this change
- 9 in the structure of educational and vocational services reduces
- 10 recidivism significantly.
- 11 (c) A correctional system that reduces prison education programs
- 12 to an insignificant level and focuses solely on the custodial
- 13 functions creates an unbalanced situation for the long-term stability
- 14 of the criminal justice system. With this emphasis, prison growth
- 15 is inevitable. The current structure of California's prison education
- 16 system undervalues education and is hostile to rehabilitation. As
- 17 a consequence, inmates will leave prison worse off than when they
- 18 were first incarcerated.
- 19 (d) The undermining of correctional education is often falsely
- 20 justified on the grounds of security, but it is an artificial security.
- 21 A majority of those in prison will eventually be released and

1 therefore the state has an obligation to prepare them to be
2 contributing members of society. Current correctional education
3 policies endanger public safety by failing to provide inmates with
4 a means to take positive control of their environment, both within
5 prison and after release.

6 (e) As the prison education system fails, parole crime increases,
7 recidivism increases, and prison populations swell.
8 Commensurately, the need for additional correctional resources
9 increases. During economic downturns, when the state faces
10 enormous fiscal pressures, increased correctional costs come at
11 the expense of other critically needed programs.

12 (f) A comprehensive correctional educational program is an
13 efficient use of state funds as it will allow tens of thousands of
14 former inmates to become productive citizens.

15 SEC. 3. Section 32500 of the Education Code is amended to
16 read:

17 32500. (a) In order to encourage greater involvement of
18 educational institutions in planning and developing prison-based
19 educational programs, the Secretary of the Department of
20 Corrections and Rehabilitation, the Chancellor of the California
21 State University, the Chancellor of the California Community
22 Colleges, and the Superintendent of Public Instruction, with the
23 advice of the California Postsecondary Education Commission,
24 shall enter into interagency agreements. These agreements shall
25 provide for, but not be limited to, both of the following:

26 (1) A determination of the roles of the Department of
27 Corrections and Rehabilitation, the office of the Chancellor of the
28 California State University, the office of the Chancellor of the
29 California Community Colleges, and the State Department of
30 Education, in developing policy for prison-based educational
31 programs.

32 (2) Joint policy and program planning.

33 (b) The Secretary of the Department of Corrections and
34 Rehabilitation, the Chancellor of the California State University,
35 the Chancellor of the California Community Colleges, and the
36 Superintendent of Public Instruction shall appoint members to the
37 ~~Robert E. Burton~~ Correctional Education Committee as specified
38 in Section 32501.

(c) The Deputy Director of Correctional Education, in consultation with the committee, shall perform all of the following duties:

(1) Make recommendations on the use of instructional television in these programs.

(2) Review and make recommendations relating to any proposed budgets for these programs.

(3) Review and make recommendations relating to the implementation of the interagency agreement.

(4) Adopt and enforce all necessary rules and regulations for the management and operation of education programs within the Department of Corrections and Rehabilitation, including operating procedures and the goals of correctional education, in compliance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). All rules or regulations adopted by the committee shall be in accordance with the rules and regulations of the Department of Corrections and Rehabilitation relating to security and any applicable rules or regulations adopted by the Superintendent of Public Instruction.

(5) Approve education programs of appropriate levels and types in correctional institutions and adopt rules and regulations for the admission of inmate students to these education programs.

(6) Enter into agreements with public or private school districts, community colleges, colleges, or universities, and other entities, as appropriate, for the purpose of carrying out the duties and responsibilities of the Deputy Director of Correctional Education. All agreements and contracts for instructional services shall expressly prescribe the qualifications and expectations for instructors and the educational objectives to be met. In the identification and provision of special education services, the Deputy Director of Correctional Education, in consultation with the committee, shall establish all appropriate interagency agreements with service providers. All hiring decisions and other personnel matters with respect to correctional education programs shall be made by the Deputy Director of Correctional Education or his or her designee, in consultation with the committee, consistent with civil service regulations. Work performed by state employees as of January 1, 2010, shall not be assigned to contract employees.

1 (7) Visit and inspect the correctional schools, as the committee
2 deems necessary, and name each correctional school if necessary.

3 (d) The Deputy Director of Correctional Education, in
4 consultation with the committee and in conjunction with parole
5 and other aftercare programs and consistent with the policies
6 adopted by the Deputy Director of Correctional Education, in
7 consultation with the committee, shall develop and implement a
8 plan for providing transitional educational services for inmates,
9 including, but not limited to, counseling and placement services.

10 (e) The Deputy Director of Correctional Education, in
11 consultation with the committee, shall develop a plan and make
12 every reasonable effort to accomplish all of the following:

13 (1) Conduct annual reviews of program cost-effectiveness and
14 make recommendations, including, but not limited to, improvement
15 of programs to lower recidivism, consolidation of administrative
16 functions to lower costs, and ways to reduce operational costs.

17 (2) Provide each of the educational opportunities set forth in
18 paragraphs (3) to (6), inclusive, to inmates while in prison and in
19 state-operated transitional facilities and programs.

20 (3) Provide each inmate who has a reasonable expectation of
21 release from custody with the opportunity to achieve functional
22 literacy, specifically the ability to read and write the English
23 language and to perform routine mathematical functions at a 9th
24 grade level before his or her release or expiration of sentence. If
25 the inmate demonstrates the intellectual capacity to benefit from
26 those opportunities, the committee shall provide that inmate with
27 the opportunity to obtain the equivalent of a high school diploma.

28 (4) Provide every inmate who has a reasonable expectation of
29 release from custody with the opportunity to achieve entry-level
30 vocational skills in occupational fields in which there is a
31 demonstrable demand within the economy of this state.

32 (5) Provide every inmate to be released from custody with life
33 management skills and social adaptation skills to allow the inmate
34 to function successfully in society.

35 (6) Provide inmates who demonstrate college-level academic
36 capacity with the opportunity to engage in college-level academic
37 programs within correctional facilities. The associated costs of
38 these programs shall be borne by the inmate or generated by private
39 or foundation funding, subject to evaluations for cost-effectiveness
40 and recommendations as provided in paragraph (1).

(f) Notwithstanding the other provisions of this section, the Secretary of the Department of Corrections and Rehabilitation shall administer all prison-based education programs.

SEC. 4. Section 32501 is added to the Education Code, to read:

32501. (a) There is hereby established in the Department of Corrections and Rehabilitation the ~~Robert E. Burton~~ Correctional Education Committee. As used in this part, “committee” means the ~~Robert E. Burton~~ Correctional Education Committee.

(b) The committee shall be composed of 15 members selected as follows:

(1) The Superintendent of Public Instruction or his or her designee. Any designee selected by the Superintendent shall have an interest and expertise in the area of adult education or correctional education.

(2) An institutional supervisor of correctional education programs from the Department of Corrections and Rehabilitation appointed by the Secretary of the Department of Corrections and Rehabilitation.

(3) A representative of the Prison Industry Authority appointed by the Secretary of the Department of Corrections and Rehabilitation.

(4) A warden of a state prison appointed by the Secretary of the Department of Corrections and Rehabilitation.

(5) A vocational instructor from the Department of Corrections and Rehabilitation appointed by the Secretary of the Department of Corrections and Rehabilitation.

(6) An academic teacher from the Department of Corrections and Rehabilitation appointed by the Senate Committee on Rules.

(7) One public member not employed by a state agency appointed by the Senate Committee on Rules.

(8) A prison rights advocate appointed by the Speaker of the Assembly.

(9) One public member not employed by a state agency appointed by the Speaker of the Assembly.

(10) A representative of the University of California appointed by the President of the University of California.

(11) A representative of the California State University appointed by the Chancellor of the California State University.

(12) A representative of the California Community Colleges appointed by the Chancellor of the California Community Colleges.

1 (13) A special education teacher from the Department of
2 Corrections and Rehabilitation appointed by the Secretary for
3 Education.

4 (14) One public member not employed by a state agency
5 appointed by the Governor.

6 (15) A representative of the Division of Apprenticeship
7 Standards of the Department of Industrial Relations appointed by
8 the Director of Industrial Relations.

9 (c) (1) Except for the terms of initial members, members shall
10 be appointed for terms of four years. If a vacancy occurs, the
11 appointing authority, as specified in subdivision (a), shall appoint
12 a member for the remainder of that term. The terms of the initial
13 members of the committee shall expire as follows:

14 (A) The members selected under paragraphs (1), (2), (5), and
15 (15) of subdivision (a) shall expire on March 15, 2012.

16 (B) The members selected under paragraphs (4), (6), and (8) of
17 subdivision (a) shall expire on March 15, 2013.

18 (C) The members selected under paragraphs (3), (10), (11), and
19 (12) of subdivision (a) shall expire on March 15, 2014.

20 (D) The members selected under paragraphs (7), (9), (13), and
21 (14) of subdivision (a) shall expire on March 15, 2015.

22 (2) Successor members shall hold office for terms to commence
23 on the expiration date of the term of the predecessor.

24 (d) Members of the committee shall serve without compensation
25 but shall be reimbursed for per diem and travel expenses incurred
26 in the performance of their duties. Members employed by state
27 agencies shall receive their normal state salaries while serving on
28 the committee. Costs incurred by the committee shall be offset by
29 a reduction in the current prison education program administrative
30 staff, either Office of Correctional Education administrative staff
31 at the central office or site principals.

32 (e) The members of the committee shall elect a chairperson
33 annually. The chairperson shall meet regularly with the Secretary
34 of the Department of Corrections and Rehabilitation to ensure that
35 all actions taken by the committee are in accordance with
36 Department of Corrections and Rehabilitation's rules and
37 regulations relating to security.

38 (f) The committee shall meet at least six times each year. The
39 meetings may be called by the chairperson of the committee.

40 SEC. 5. Section 32502 is added to the Education Code, to read:

1 32502. The committee shall advise the Deputy Director of
2 Correctional Education regarding all of the following goals and
3 objectives:

4 (a) Ensure that correctional education programs meet minimum
5 performance standards and provide 9th grade literacy skills and
6 marketable vocational skills.

7 (b) Develop by January 1, 2012, in cooperation with the State
8 Department of Education, a procedure to evaluate the effectiveness
9 of correctional education programs, including criteria similar to
10 those utilized by the State Department of Education. An evaluation
11 shall be done on a biennial basis thereafter.

12 (c) (1) Ensure that all education staff are certified in accordance
13 with the State Department of Education's standards by January 1,
14 2012. Provision shall be made for the development of individual
15 plans, approved by the Deputy Director of Correctional Education,
16 if a current education staff member does not qualify for
17 certification. Instead of certification, correctional librarians shall
18 hold a master's degree in library science from a library program
19 accredited by the American Library Association.

20 (2) Ensure that in performing educational services, the members
21 of the education staff do not perform peace officer duties.

22 (3) Ensure that educational staff adhere to institutional security
23 standards and maintain safety status to continue the institutional
24 security and protection of the public safety.

25 (d) Develop a procedure for maintaining a list of substitute
26 teachers so that students are not displaced if a regular instructor
27 is absent for any reason.

28 (e) Develop a mechanism to test all offenders committed to the
29 custody of the Department of Corrections and Rehabilitation for
30 academic achievement unless the offenders are specifically
31 excluded from the testing requirement by the Department of
32 Corrections and Rehabilitation's policy. Standards shall be in
33 accordance with State Department of Education's testing standards
34 for academic achievement.

35 (f) Develop a five-year comprehensive plan for a unified
36 correctional school system by June 1, 2012. This unified
37 correctional school system shall not constitute a school district or
38 any other local educational agency. The plan shall have a three-year
39 phase-in schedule and shall do each of the following:

1 (1) Work with the Prison Industry Authority to develop training
2 programs for inmates.

3 (2) Develop measurable objectives for correctional education.

4 (3) Develop quality control mechanisms for correctional
5 education.

6 (4) Integrate academic education and vocational education with
7 participation in prison industry programs.

8 (g) Ensure that vocational education programs complement
9 existing Prison Industry Authority programs whenever possible.

10 (h) In conjunction with the Department of Corrections and
11 Rehabilitation, determine conditions under which an inmate may
12 be removed from an education program or the classroom. The
13 conditions developed for removal of an inmate from an education
14 program or the classroom shall be consistent with any regulations
15 or policies of the Department of Corrections and Rehabilitation as
16 well as any federal laws.

17 (i) Conduct a survey of all correctional institutions to identify
18 inmates with special education needs and develop a plan for
19 addressing those special needs.

20 (j) Develop and implement an ongoing teacher training program
21 in correctional education in conjunction with the Commission on
22 Teacher Credentialing.

23 SEC. 6. Section 32503 is added to the Education Code, to read:

24 32503. The committee shall submit a report to the Legislature
25 on or before January 1, 2012, with recommendations for further
26 restructuring of correctional education in this state. The report
27 shall focus on, but not be limited to, each of the following:

28 (a) Attaining parallel education programs between correctional
29 education and public education.

30 (b) Correctional education governance system.

31 (c) Funding sources.

32 (d) Correctional education curriculum.

33 (e) Correctional library standards.

34 (f) Correctional education teacher training.

35 (g) Appropriate correctional education liaisons with the greater
36 educational community in this state.

37 SEC. 7. Section 2053.4 of the Penal Code is amended to read:

38 2053.4. The Secretary of the Department of Corrections and
39 Rehabilitation shall appoint a Deputy Director of Correctional
40 Education, who shall report directly to him or her and shall oversee

1 and administer all prison education programs in conjunction with
2 the ~~Robert E. Burton~~ Correctional Education Committee. The
3 Secretary of the Department of Corrections and Rehabilitation
4 shall make the appointment from a list of at least three and no more
5 than five recommended candidates that the ~~Robert E. Burton~~
6 Correctional Education Committee shall submit to the secretary
7 for this purpose. The Deputy Director of Correctional Education,
8 in conjunction with the ~~Robert E. Burton~~ Correctional Education
9 Committee, shall set both short-term and long-term goals for inmate
10 literacy and testing, and shall establish priorities for prison
11 education programs.

12 SEC. 8. This act does not authorize the expansion or
13 enhancement of correctional education programs and shall be
14 implemented with existing funds that are allocated for prison
15 education. Funding for purposes of this act is subject to the annual
16 budget process.